IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1418 OF 2002

Shivraj Ramkrishna Bhosale .. Petitioner

Versus

Hindurao Vitthal Bhagat & Ors. .. Respondents

Mr.M.D.Angal for petitioner

Mr.K.V.Saste, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8th December 2005.

P.C.

. Heard Mr.Angal for petitioner.

2. Although, notice has been directed to be

issued by this Court as early as on 31st January 2003 and further proceedings in the criminal complaint filed by respondents are stayed, none appears for the original complainant, Hindurao.

3. Original complainant who is arrayed as first respondent herein, has filed a complaint alleging offences punishable under section 138 of the Negotiable Instruments Act read with section 420 of I.P.C. in the Court of Judicial Magistrate, First Class, Vita being regular Criminal Case No.367 of 1999. Order impugned in the present petition is issuing process against the petitioner who is arrayed as accused to the said criminal complaint and summoning him to answer charge therein. Mr.Angal has been fair enough in pointing out that the petitioner is also faced with other criminal complaint for identical charges, whereunder, orders issuing process were challenged by him upto this Court. Said petitions were dismissed by this Court.

4. Upon hearing Mr.Angal and perusing the petition, it is clear to me that all contentions including pendency of the civil suit as well as breach of obligations committed by the second respondent as well as original complainant can be pointed out during the course of proceedings in the criminal court,. It is not necessary to interfere with the order issuing process when prima facie cheque is issued by petitioner. It would be open for the petitioner to also point out that the said cheque is not issued in discharge of any liability but to secure payment as well as rights of the said complainant. Petition disposed of.

(S.C.DHARMADHIKARI, J)